

## WHO'S WHO: FEDERAL AGENCY ROLES AND RESPONSIBILITIES FOR OIL SPILL PREVENTION AND RESPONSE

### About the Compliance Assistance Guides...

The U.S. Environmental Protection Agency (EPA) has prepared this series of guides for owners and operators of certain oil facilities to help you better understand the Federal Oil Pollution Prevention regulation. This regulation has two sets of requirements -- the Spill Prevention Control and Countermeasure (SPCC) plan rule (an oil spill *prevention* program), and the Facility Response Plan (FRP) rule (an oil spill *response* program). You *must* comply with these requirements if you meet the applicability provisions set out in each rule. You can find the Federal Oil Pollution Prevention regulation in Title 40 of the Code of Federal Regulations (CFR) part 112 (40 CFR part 112). The CFR is available at Federal Depository Libraries around the country, many of which are on the campuses of major colleges and universities. The CFR is also available online at <http://www.gpo.gov>. Be aware that the series is *guidance* only; you should review the regulation if you think it applies to you.<sup>1</sup> A complete list of Oil Spill Program outreach guides and information on obtaining them appears in the "Compliance Assistance Guides" section at the end of this document. Or you may find the series at EPA's Oil Spill Program Website at <http://www.epa.gov/oilspill>.

This guide, *Who's Who: Federal Agency Roles and Responsibilities for Oil Spill Prevention and Response*, summarizes the duties and authority of federal agencies regarding oil spill prevention and response.

### What is the legislative and regulatory framework for oil spill prevention and response?

The Clean Water Act of 1972 as amended (CWA) is the principle federal statute for protecting navigable waters and adjoining shorelines from pollution. Generally, by its terms, the CWA invests the President with various duties and authorities. In turn, under Executive Order (E.O.) 12777, the President delegated many of his regulatory duties and authorities to appropriate Executive branch agencies, including the U.S. Environmental Protection Agency (EPA); in the Department of Transportation (DOT) the US Coast Guard (USCG) and the Office of Pipeline Safety (OPS) within the Research and Special Programs Administration (RSPA); and, in the Department of the Interior (DOI), Minerals Management Service (MMS).

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), issued under the CWA as amended and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), is the linchpin of the national response planning system, and is the federal

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<sup>1</sup>This guidance is based on the existing SPCC/FRP rule and policies in effect on December 31, 1998. This guidance may change as the SPCC rule is revised.

government's blueprint for responding to oil spills and hazardous substance releases. The NCP establishes the National Response Team (NRT), Regional Response Teams (RRT), and Area Committees to oversee planning and coordination of preparedness and response actions. The NCP also provides for on-site support through federal On-Scene Coordinators (OSCs) who monitor or direct response efforts at the scene of a discharge or release.

The OSC is the federal official responsible for monitoring or directing responses to oil spills and hazardous substance releases under the jurisdiction of the federal government. The OSC coordinates federal efforts with, and provides support and information to, local, state and regional response communities. The federal OSC is an agent of either EPA or the USCG, depending on where the incident occurs. EPA OSCs have primary responsibility for spills and releases to inland areas and waters, and USCG OSCs have responsibility for coastal waters and the Great Lakes. In general, the OSC has the following key responsibilities during and after a response to an oil spill or hazardous substance release: (1) assessment; (2) monitoring; (3) response assistance; and (4) evaluation.

If the OSC determines that federal involvement is needed in a response, the OSC will assume control of all spill response operations at the site, obtaining and directing resources such as cleanup personnel and equipment. If the OSC determines that the personnel and equipment already deployed at the spill site are inadequate, the OSC may employ spill contractors using available federal response funds; if necessary, the OSC may request money from the Oil Spill Liability Trust Fund (OSLTF), a cost recovery fund created to pay for certain oil response actions and oil spill related damages.

For oil spills that require substantial federal support and resources, the OSC may activate the RRT to provide additional technical advice, equipment, or manpower. In addition, the OSC can request support from EPA's Environmental Response Team (ERT), which is available 24 hours-a-day with oil spill expertise and special response equipment.

The Oil Pollution Act of 1990 (OPA) amended the CWA and other statutes to strengthen and expand the nation's oil and hazardous substances spill prevention, preparedness, and response activities. On October 18, 1991, the President signed E.O. 12777, which divided the responsibility for implementing the OPA provision among various Federal agencies.

### **How did the President divide his principle responsibilities under E.O. 12777?**

#### **◆ EPA**

EPA regulates non-transportation-related onshore facilities through E. O. 12777 (and certain offshore facilities through the Federal Oil Pollution Prevention regulation). Under a Memorandum of Understanding (MOU) with MMS and DOT, EPA has authority for certain offshore facilities "landward

of the coastline.” Within EPA, the Office of Solid Waste and Emergency Response (OSWER) is responsible for developing EPA’s national oil spill program policy including developing regulations and guidance for implementing the Oil Pollution Prevention regulation. Teams in the 10 EPA regional offices form the “front line” of EPA’s Oil Spill Program by responding to inland oil spills and inspecting facilities to determine compliance with the Oil Pollution Prevention regulation.

Other EPA offices handle various aspects of oil pollution prevention, mitigation, response compliance and enforcement. For example, within OSWER, the Office of Underground Storage Tanks (UST) implements a Prevention program for petroleum USTs, and the Chemical Emergency Preparedness and Prevention Office participates in local emergency planning activities including planning for oil spill response. Outside of OSWER, the Office of Enforcement and Compliance Assurance handles enforcement and compliance issues for oil spill prevention and response.

EPA provides OSCs for inland spill response, and *must* direct the response in cases where the inland spill "is of such a size or character as to pose a substantial threat to the public health or welfare." EPA may also take the lead in managing the response if state or local response officials so request, or if EPA determines that the responsible party is incapable of responding adequately to the spill.

#### ◆ ***DOT***

RSPA regulates the transportation of oil in pipelines, tank trucks, and railroad tank cars to assure the safe transportation of natural gas, petroleum, and other hazardous materials. RSPA develops regulations and alternative approaches for design, construction, testing, operation, maintenance, and emergency response to manage risks at pipeline facilities.

The USCG regulates oil vessels, deepwater ports, and the marine transfer components of transportation-related onshore facilities, including some inland port areas. The USCG provides OSCs for coastal spill response, and *must* direct the response in cases where the coastal spill "is of such a size or character as to pose a substantial threat to the public health or welfare." The USCG also manages the National Response Center (NRC) and maintains the National Strike Force, a team specifically trained and equipped to respond to major marine pollution incidents. Further, the USCG serves as the fund manager for the OSLTF established by the OPA.

#### ◆ ***DOI***

MMS regulates certain offshore facilities and associated pipelines (except deepwater ports) for federal and state waters. On February 4, 1994, the DOI MMS re-delegated near-shore non-transportation-related facilities located landward of the coastline to EPA and transportation-related facilities located landward of the coastline to DOT.

Currently, DOI contributes expertise on natural resource damage assessments and endangered species protection and is responsible for Native American Lands and U.S. Territories. DOI serves as a natural resource trustee for the resources it manages or protects. Regional Environmental Officers of DOI are designated members of RRTs.

### **What about the other federal agencies and oil spill response?**

#### **◆ *Department of Defense (DOD)***

DOD responds when there is an oil release from a facility or vessel under its jurisdiction. Or upon another agency's request, DOD will provide U.S. Navy equipment and manpower for oil spill containment and recovery, ship salvaging, shipboard damage control, and diving. DOD may also provide U.S. Army Corps of Engineer equipment and expertise to remove navigational obstructions and perform structural repairs on ships.

#### **◆ *Department of Energy (DOE)***

DOE provides OSCs when there is an oil release from a facility under DOE jurisdiction or during transport under DOE control.

#### **◆ *Federal Emergency Management Agency (FEMA)***

During a response effort, FEMA advises and aids lead agencies in coordinating relocation assistance. The agency develops policies and provides guidance and technical assistance for emergency preparedness, planning, training, and deployment activities for state and local governments.

#### **◆ *Department of Health and Human Services (HHS)***

HHS assesses health hazards at a response site and offers training on the health effects of oil spills. Within HHS, the Agency for Toxic Substances and Disease Registry (ATSDR) and the National Institutes for Environmental Health Sciences (NIEHS) maintain and provide information on health effects.

#### **◆ *Department of Commerce (DOC)***

In DOC, the National Oceanic and Atmospheric Administration (NOAA) provides scientific support to the USCG for protecting resources and contingency planning in coastal and marine areas by assessing hazards and monitoring spill trajectory (direction) to predict movement and dispersion of oil and other hazardous substances. NOAA contributes information about sensitive coastal environments; and

furnishes data about actual and predicted meteorological, hydrological, ice, and oceanographic conditions. NOAA also serves as the natural resource trustee for the living marine resources it manages and protects and assesses damage to natural resources for oil spill liability determinations.

◆ ***Department of Justice (DOJ)***

The DOJ provides expert advice on legal questions arising from oil spills or other releases and federal agency responses. The DOJ represents the federal government in litigation relating to spills and releases.

◆ ***Department of Labor (DOL)***

In DOL, the Occupational Safety and Health Administration (OSHA), develops and enforces standards designed to address health and safety issues in the workplace and the field. OSHA protects the health and safety of workers at facilities that store, handle, or use flammable or combustible liquids, which includes petroleum products stored in aboveground storage tanks (ASTs).

◆ ***Department of State (DOS)***

The DOS leads the development of international contingency plans. DOS helps coordinate international response efforts when oil spills or other releases cross international borders or involve foreign flag vessels. The Department also responds to requests for aid from foreign governments.

**What about state and tribal authorities?**

In addition to the federal program requirements, many state and tribal government have regulatory requirements for facilities that store oil products in ASTs, USTs, and other equipment. The Compliance Assistance Guide – Oil Spill Notification, Response and Recovery – provides a listing of state and tribal contact information.

**How do agencies work together to prevent and respond to oil spills?**

Federal, state, and local agencies are working together to develop a consistent policy for preventing and responding to oil spills. The National Preparedness for Response Exercise Program (PREP) and the Integrated Contingency Plan (ICP) Guidance are examples of this cooperation.

- ◆ **PREP.** Federal and state agencies and oil industry representatives developed the PREP in 1994. PREP is a voluntary mechanism for compliance with multiple Federal exercise requirements that is economically feasible for the government and the oil industry to adopt and sustain. PREP satisfies exercise requirements for EPA, USCG, DOT/RSPA, and DOI/MMS. PREP promotes involvement in

oil spill exercises, and has resulted in an improved understanding of the roles that different parties play during a response.

- ◆ **ICP.** On June 5, 1996, as chair of the NRT, EPA announced the availability of the ICP Guidance. The NRT member agencies developed the ICP concept to provide a mechanism for consolidating multiple emergency response plans into one functional plan. The audience for the ICP includes facility owners and operators who must prepare emergency response plans for responding to oil discharges and releases of non-radiological hazardous substances. The NRT and other federal agencies responsible for reviewing and approving federal response plans agree to accept plans prepared in the ICP format if the ICP option is appropriate for the regulated entity as indicated in the guideline.

Below is a list of some federal response and contingency planning requirements you can satisfy through an ICP.

- EPA's Oil Pollution Prevention Regulation (SPCC and FRP Requirements): 40 CFR 112.7(d) and 112.20 -112.21.
- EPA's Risk Management Programs Regulation: 40 CFR part 68.
- EPA's RCRA Contingency Planning Requirements: 40 CFR 264, 265 Subpart D and 40 CFR 279.57.
- USCG's Facility Response Plan Regulation: 33 CFR part 154, Subpart F.
- RSPA's (OPS) Pipeline Response Plan Regulation: 49 CFR part 194
- MMS's Facility Response Plan Regulation: 30 CFR part 254
- OSHA's Emergency Action Plan Rules: 29 CFR 1910.38(a), 29 CFR 1926.35.
- OSHA's Hazardous Waste Operations and Emergency Response (HAZWOPER) Standards: 29 CFR 1910.120, 29 CFR 1926.65.

This list does not include state and local emergency response planning requirements. If you decide to develop an ICP, please contact relevant state and local agencies for any additional requirements.

**Where do I go for more information?**

**The PREP guidelines:**

USCG-X0191 and the Training Reference for Oil Spill Response: USCG-X0188 are available by mail or fax.

TASC Department Warehouse  
3341Q 75th Avenue  
Landover, MD 20785  
FAX: (301) 386-5394

When requesting copies, please indicate the document name and publication numbers.

**FEDERAL AGENCY CONTACT INFORMATION****U.S. EPA - Oil Spill Program**

Office of Solid Waste and Emergency Response  
401 M Street, SW, Washington, DC 20460

**<http://www.epa.gov/oilspill>**

**or call the**

EPCRA/RCRA/Superfund Hotline at (800) 424-9346

**U.S. EPA - Chemical Emergency Preparedness and Prevention Office**

Office of Solid Waste and Emergency Response  
401 M Street, SW, Washington, DC 20460

<http://www.epa.gov/swercepp/>

**U.S. Coast Guard - Marine Safety and Environmental Protection  
(Response Information)**

2100 2nd Street, SW, Washington, DC 20593  
<http://www.uscg.mil/hq/g-m/nmc/response/index.htm>

**U.S. Department of Transportation Research and Special Programs Administration  
Office of Pipeline Safety**

400 7th Street, SW, Washington, DC 20590  
<http://ops.dot.gov/>

**U.S. Department of Labor - OSHA**

OSHA National Information Line (800) 326-2577

<b><u>FEDERAL AGENCY CONTACT INFORMATION</u></b>
200 Constitution Avenue Washington D.C. 20215 (You may also contact your Regional or Area OSHA office.) <a href="http://spider.osha.gov/oshdir/">http://spider.osha.gov/oshdir/</a>
<b>U.S. Department of the Interior - Minerals Management Service</b> <b>Facility Response Plan Regulation</b> 381 Elden Street, Herndon, VA 22070-4817 <a href="http://www.mms.gov/about.htm">http://www.mms.gov/about.htm</a>

### **Compliance Assistance Guides**

EPA's Compliance Assistance Guides are listed below. You can obtain these guides by contacting EPA Headquarters, any of the 10 EPA Regional Offices, or by visiting EPA's Oil Spill Program Website **<http://www.epa.gov/oilspill>**.

- ◆ Introduction and Background to the Oil Pollution Prevention Regulation
- ◆ Who's Who: Federal Agency Roles and Responsibilities for Oil Spill Prevention and Response
- ◆ What to Expect During an SPCC/FRP Inspection
- ◆ Facility Response Planning
- ◆ Sample SPCC Plan and Sample Containment Volume Calculations
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Bulk Oil Storage Facilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Oil Production and Oil Drilling/Workover Facilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Farms and Ranches

- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Mines and Quarries
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Electrical Utilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Vehicle Service Facilities
- ◆ Spill Prevention Requirements for Facilities Conducting Large Volume Transfer Operations
- ◆ Spill Prevention and Control for Marinas and Other Waterside Fueling Facilities
- ◆ Oil Spill Notification, Response, and Recovery